



Catherine Cortez Masto, DSCC Chair

Chuck Schumer, Democratic Leader

Committed to Electing a Democratic Senate

DSCC VOTER PROTECTION LITIGATION

The Democratic Senatorial Campaign Committee has made a multi-million dollar investment in a legal strategy across key battleground states, including Arizona, Florida, Georgia, Maine, Minnesota, and Montana, North Carolina, South Carolina, and Texas that will take on Republicans' decades-long voter suppression [crusade](#) and increase access to the ballot for young people, communities of color, and rural voters. This legal strategy is only more urgent as Republicans have been emboldened by President Trump's [baseless](#) and [disproven](#) claims of voter fraud.

The DSCC— along with the DCCC, DNC, partner political organizations, state parties and local stakeholders – are pursuing these challenges to counteract arbitrary partisan advantage, end obvious voter suppression, and expand access to the ballot. We are encouraged to have already achieved changes to [state](#) voting [laws](#) and will continue to tear down barriers to Democratic victory in 2020 and beyond, and most importantly, to protect the integrity of our Democracy.

This memo highlights a few of the major voter protection lawsuits the DSCC is currently litigating followed by a complete list of our lawsuits.

HIGHLIGHTED VOTER PROTECTION LAWSUIT WINS

- **Arizona: Absentee Ballot Assistance Ban and Out-of-Precinct Voting Restriction**
 - The DNC, DSCC, and Arizona Democratic Party brought a lawsuit in 2016 challenging (1) Arizona's statute criminalizing the collection and delivery of another person's ballot, and (2) Arizona's policy of wholly discarding, rather than counting or partially counting, ballots cast in the wrong precinct. Earlier this year, we won this case in an [en banc decision](#) by the Ninth Circuit, which found the laws discriminated against African American, Native American voters and other communities of color.
 - The court held that the totality of the circumstances—Arizona's long history of race-based voting discrimination; the Arizona legislature's unsuccessful efforts to enact less restrictive versions of the same law when preclearance was a threat; the false, race-based claims of ballot collection fraud used to convince Arizona legislators to pass the ban; the substantial increase in American Indian and Hispanic voting attributable to ballot collection that was targeted by the ban; and the degree of racially polarized voting in Arizona—cumulatively and unmistakably revealed that the ban on ballot collection imposed a discriminatory burden on voters of color and that racial discrimination was a motivating factor in enacting the ban.
 - Given the risk that traditional in-person polling locations pose in light of the coronavirus, voters must increasingly rely upon vote-by-mail ballots. And for those who lack reliable mail access or cannot hand in their ballots in person—including many voters on tribal



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reservations—it's critical to ensure that voters have a variety of options for casting their vote-by-mail ballots, including the freedom to designate someone they trust to turn in their ballot.

- **Current status:** The Ninth Circuit's decision is currently on hold while the state seeks Supreme Court review. If the Court declines to hear the case and the Ninth Circuit's decision stands, Arizona voters will be able to once again entrust neighbors, friends, and trusted volunteers to return their voted and sealed ballots. Additionally, Arizona voters who vote in the incorrect precinct will no longer have their ballots wholly rejected.
- **Montana: Absentee Ballot Assistance Ban and Absentee Ballot Election Day Cutoff**
 - Similar to the lawsuit in Arizona, the DSCC and Montana Democratic Party are suing the state, challenging two voting restrictions: (1) the ban on collecting and submitting signed and sealed absentee ballots, and (2) the requirement that absentee ballots must be received by—rather than postmarked by—8pm on Election Day. Read the complaint [here](#).
 - The first restriction is the Absentee Ballot Assistance Ban—Montana's recently enacted restrictions on individuals and organizations that assist absentee voters by collecting and transporting sealed and signed absentee ballots to the county elections office. Montana's absentee ballot assistance ban effectively prevents counties from providing secure, 24-hour drop boxes and other convenient, after-hours ballot return locations, forcing absentee voters seeking to vote during the last week of an election to drop off their ballots only during the business hours of a drop-off site staffed by county election officials.
 - The second is the Absentee Ballot Election Day Cutoff—Montana's requirement that absentee ballots must be received by the county elections office by 8pm on Election Day. Regardless of when the ballot is postmarked, and regardless of whether the voter is responsible for any delay the ballot encounters in the mail, if the ballot is not received by 8pm, the voter is entirely disenfranchised.
 - The combined effect of the Absentee Ballot Assistance Ban and the Election Day Cutoff is to make it significantly more difficult for voters to exercise their right to vote, prevents civic organizations, friends, and neighbors from helping voters, and particularly burdens senior, disabled, Native American, and young voters.
 - **Current status:** A court granted a preliminary injunction blocking these laws, finding that they discriminate against native voters, voters with disabilities, and others. The Montana Supreme Court put the lower court's ruling on the Election Day Receipt Deadline on hold for the primary election because the District Court issued its opinion only a few days prior to the election. The lower court's injunction against the Absentee



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Ballot Assistance Ban remains in full effect. The Montana Supreme Court will decide the appeal of both rulings in August.

- **Georgia: Absentee Ballot Rejection Lawsuit**

- Along with the Georgia Democratic Party, we sued and obtained settlement against Georgia's failure to ensure that voters receive prompt notification of their rejected absentee ballots in time to cure a missing or mismatched signature, and to Gwinnett County's deficient and confusing absentee ballot envelope design that resulted in high rate of rejections.
- Georgia law requires that election officials reject absentee ballots for missing or mismatched signatures on absentee ballot envelopes, but until this settlement failed to provide any uniform standards for notifying voters of the alleged signature defects. Thus, the absentee voting laws allowed election officials across the state to use differing procedures, some of which ultimately fail to provide voters sufficient notice and opportunity to cure their ballots.
- In addition, Gwinnett County's absentee ballot envelope design, which included text that is barely legible and difficult to understand, invited errors and imposes an unconstitutional burden on the right to vote.
- **Current status:** We obtained a favorable settlement of both claims, ensuring voters would receive [prompt notification](#) of rejected absentee ballots and that Gwinnett County would [address the deficiencies](#) in its absentee ballot.

- **South Carolina: Social Security Number Lawsuit**

- Successfully challenged the state's requirement that prospective voters submit their full Social Security number (rather than just the last four digits), which required individuals to risk identity theft in order to register to vote.
- **Current status:** State officials agreed that the last 4 digits would suffice for voter registration and a federal judge dismissed the case.

ALL DSCC VOTER PROTECTION LITIGATION

Voter Registration Restrictions

DSCC is challenging barriers to voter registration that are particularly harmful for students, rural voters, and voters with disabilities:



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- [Texas “Wet Ink” Signature](#): Challenging Texas’s requirement that severely limits citizens’ ability to register to vote by rejecting voter registration applications that use an electronic (rather than original) signature. This requirement has resulted in the rejection of thousands of voter registrations, particularly harming Texans without access to mailing facilities or who require assistance to register.
- [Texas Simultaneous Online Voter Registration](#): Challenging Texas’s failure to allow citizens to simultaneously register to vote when they renew or update their driver’s license online. (Press release [here](#) describes the lawsuit and an early victory.)

Voting Barriers

The DSCC is suing to overturn laws that create barriers to voting for targeted Democratic constituencies, including voters of color.

- [Arizona Mail-in Ballot Rule](#): challenging a rule that denies voters a fair opportunity to fix their absentee ballot if they forget or don’t realize they need to sign it.
 - Arizona recognizes that its process of signature matching rejects otherwise lawful votes and has implemented a “cure” process for mismatched signatures. Under this process, voters can submit proof showing they casted the ballot in question for up to five days after the election.
 - But this rule does not equally apply to all mail ballots. Mail ballots that are missing signatures will be thrown out—with practically no opportunity to cure the ballot. Unsigned mail ballots are only given until 7:00 PM on Election Day for cure— and this process only occurs if the County Recorder makes a “reasonable and meaningful attempt to contact the voter.”
 - We are asking the court to declare that all voters who submit a ballot without a signature receive the same opportunity to cure as voters with a signature mismatch. Without this protection, many Arizona voters risk disenfranchisement in November, with no ability to have their vote counted. Vote by mail has grown exponentially in Arizona over the past few years, and that number will only increase in November due COVID-19.
- [Arizona Ballot Collection and Rejection of Out-Of-Precinct Ballots](#) (highlighted above): DSCC successfully challenged two major barriers to voting access in AZ, which the Ninth Circuit found were discriminatory: (1) law criminalizing the practice of ballot collection, and (2) Arizona’s wholesale rejection of ballots cast in the wrong precinct. Victory will mean that Arizona voters will be able to once again entrust neighbors, friends, and trusted volunteers to return their voted and sealed ballots. Additionally, Arizona voters who vote in the incorrect precinct will no longer have their ballots wholly rejected.
 - Although we won in the Ninth Circuit, the ruling is stayed while the state seeks review at the Supreme Court.



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- [North Carolina Early Voting Locations](#): The DSCC successfully challenged Republicans' decision to eliminate early voting on the final Saturday of the early voting period. Early voting is widely used in the state. In the 2016 elections alone, more than 193,000 voters cast ballots on the final Saturday of early voting, making it the busiest day of early voting that year. The North Carolinians who vote on this day are disproportionately voters of color.
 - Within days of filing the suit, the Republican-controlled state legislature reversed course and reinstated the early voting day.
 - We are seeking a preliminary injunction against a different part of the Republicans' bill that forces counties to adopt a wasteful, one-size-fits-all early voting schedule, which has the effect of reducing counties' ability to offer early voting locations and hours when they are most needed.
- [Georgia Absentee Ballot Design](#) (highlighted above): The DSCC settled with Gwinnett County over the confusing absentee ballot design that had resulted in high rates of rejected ballots, as well as Georgia's signature match process that currently allows election officials to throw out ballots for no lawful reason and without adequate notice or ability to cure.
- [Texas Mobile Voting](#): The DSCC is challenging the state's unnecessary and burdensome regulations on widely used mobile polling locations. These requirements, which effectively ban mobile polling locations across the state, mandate that the polling locations remain open for eight hours each day and stay open for the same number of days as the main early voting location in the county.
- [Minnesota Voting Assistance and Ballot Collection Ban](#): the DSCC is challenging a law that prohibits anyone from assisting more than three voters in completing their ballots, which has a particularly negative effect among the state's Hmong-American and Somali-American communities. The DSCC is also challenging a law that prohibits anyone from returning or mailing in more than three absentee ballots in an election.
- [Montana Ballot Collection and Deadline](#) (highlighted above): the DSCC is challenging two Montana voting restrictions:
 - (1) Recently enacting restriction on individuals and organizations that assist absentee voters by collecting and transporting signed and sealed ballots to the county elections office. Montana's absentee ballot assistance ban effectively prevents counties from providing secure, 24-hour drop boxes and other convenient, after-hours ballot return locations, forcing absentee voters seeking to vote during the last week of an election to drop off their ballots only during the business hours of a drop-off site staffed by county election officials.



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- (2) Requirement that absentee ballots must be received by the county elections office by 8pm on Election Day.
- [Texas Straight Ticket Voting](#): The DSCC is challenging the State’s elimination of straight ticket voting that will go into effect in 2020 for the first time. Straight ticket voting is widely used by voters in Texas—a state that often employs long ballots—as in the 2018 election, two-thirds of voters cast a straight ticket vote. The elimination of straight ticket voting will likely lead to longer lines and wait times for all voters, which would likely deter voting. In addition, the elimination of straight ticket voting would likely lead to voter confusion and increased difficulty in casting a ballot.
- [Kansas Out-of-Precinct Voting](#): The DSCC is challenging the unlawful delay of a critical Kansas election law by the Secretary of State. In 2019 Kansas passed an election reform bill that, among other things, permits county election officials to implement out of precinct voting, but the Republican SOS has instructed them not to implement it. The DSCC is bringing this lawsuit asking the court to require that the SOS follow the law.

Ballot Order Statutes

In several states, the DSCC is challenging rules that ensure that Republican candidates are given preferential placement on the ballot. Studies have repeatedly shown that the candidate or political party consistently listed first has a “primary effect,” increasing their vote share by as much as **5 percent**.

- [Minnesota](#): Successfully challenged a ballot order law places Democrats last on the ballot, below candidates from the Grassroots-Legalize Cannabis Party, the Legal Marijuana Now Party, and the Republican Party.
 - **Current status:** We **won** in district court. As the judge wrote in the [order](#), “Contrary to the Secretary’s arguments, the advantage provided by the Ballot Order statute is not small. The unrefuted evidence shows that the primacy effect created by the statute confers anywhere from 1% to 5.5% more votes on the party benefitting from the statute’s operation.” Further, it said: “Given that Minnesota’s elections have, in the past, been decided by as slim of a margin as .01% of the vote share, even a 1% increase in vote share as a result of the primacy effect created by the Ballot Order statute is significant. “
- [Arizona](#): Republican candidates will be listed first in 11 of the state’s 15 counties, where 80 percent of the state’s population lives.
- [Georgia](#): Republican candidates have been and will be listed first on all of the state’s ballots. In the 2018 election, races up and down the ballot were decided by slim margins: the governor was elected by a mere 1.39 percent and the Republican candidate for CD-7 was elected by only 0.14 percent.



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- [Texas](#): Republican candidates have long been—and will be continue to be—listed first on all of the state’s ballots.
- [Florida](#): A federal judge ruled in November that the state’s ballot order law was unconstitutional and provided an unfair advantage to members of the (Republican) governor’s party.
 - **Current status**: The Eleventh Circuit reversed the lower court in a deeply cynical ruling finding that the national party committees lacked standing to sue—that is, the Democratic party isn’t injured by a law that provides an arbitrary 5% advantage to the Republican candidate. We have filed a petition to have the full court rehear the case.
- [Maine](#): State requires that candidates be listed in alphabetical ballot order, which in 2020 will favor every Republican candidate for federal office.
 - **Current status**: Court denied preliminary injunction, and we are appealing.